The appeal is therefore dismissed. No order for costs.

I should add that the above consideration do not necessarily apply to all cases of appeals to the Minister. The present case is concerned with appeals from a refusal by the Registrar of Trade Unions under the second part of section 14 to register a trade union because he is of opinion that the union is likely to be used for unlawful purposes. It is conceivable in cases of refusal under the first part of that section that the matter to be decided involves the application of legal principles to proved facts where considerations of policy do not enter into the decision; in such circumstances it may be that the powers of the Minister are not purely ministerial.

Appeal dismissed.

CHAN CHONG v. PUBLIC PROSECUTOR

[A. Cr. J. (Sutherland J.) January 25, 1957]

[K. L. — Criminal Appeal No. 84 of 1956]

Minor Offences Ordinance, 1955, s. 28(k) — Loitering with intent to commit an offence — Necessity to prove that person is a suspected person or reputed thief — Charge.

In this case the accused was charged as follows: "That you on 10.11.56 at about 1.30 a.m. at Batu Lane. Kuala Lumpur were found loitering in a public place with intent to commit a seizable and non-bailable offence and that you have thereby committed an offence punishable under section 28(k) Minor Offences Ordinance, 1955."

It was argued on appeal that the charge was defective as it was not alleged that the accused was a suspected person.

Held: the charge in this case was defective and therefore the conviction must be set aside.

Cases referred to:—

(1) *Fairbairn* 33 Cr. App. R. 179.

(2) *Harris* 34 Cr. App. R. 184.

(3) *Public Prosecutor v. Leong Yoon Meow* (1953) M.L.J. xxxv-xxxvi.

(4) *Public Prosecutor v. Syed Bakri* (1955) M.L.J. xvii.

MAGISTRATE'S CRIMINAL APPEAL.

P. G. Lim for the appellant.

J. P. Kirby (Federal Counsel) for the respondent.

Sutherland J. : — When this appeal came on for hearing Miss Lim appeared for the appellant and Mr. J. P. Kirby, Deputy Public Prosecutor for the respondent.

The charge against the accused was :—

"That you on 10.11.56 at about 1.30 a.m. at Batu Lane, Kuala Lumpur were found loitering in a public place with intent to commit a seizable and non-bailable offence and that you have thereby committed an offence punishable under Section 28 (k) Minor Offences Ordinance, 1955."

At the outset Mr. Kirby stated that he could only support the conviction if the words "suspected person or reputed thief" in section 28(k) of the Ordinance operated as a defence, instead of being an ingredient of the offence. He continued that it does seem from the cases that it is essential to prove that the accused is a suspected person or reputed thief as part of the evidence, and that this forms part of the offence. He cited *Fairbairn's*[1] case, in which in order to prove that the appellant came within the category of a suspected person evidence of a previous conviction of the appellant was properly admitted. He also cited *Harris'* case, which appeared to indicate that evidence is necessary to prove that an accused is a "suspected person" and it should be part of the charge.

Miss Lim, for the appellant, stated that it is essential to use the language of the section so that the accused has notice of the charge he has to meet. The accused should have known that he was being charged as a suspected person so that he could defend himself. In the cases cited, the charges must have alleged that the accused was a "suspected person". She referred to section 152 of the Criminal Procedure Code. She also referred to 1953 M.L.J. p. xxxvi where it is stated that *Public Prosecutor v. Leong Yoon Meow*[3] is authority for the proposition that it is a very good working rule to hold that where what an accused person is alleged to have done cannot be described in the language of any statutory provision creating an offence or where it seems necessary to depart from the language of the section in framing a charge, then the probability is that no offence has been committed. She also referred to *Public Prosecutor v. Syed Bakri*[4] where the learned Judge said :—

"I have repeatedly emphasised that in framing charges prosecution officers should adhere as closely as possible to the wording of the statute constituting the offence which is charged and that Magistrates should be at pains to see that this is done. If it is done, the prosecution know what they have to prove and the accused person knows what is charged against him. If it is not done then there is the danger of a muddle of the sort that has come to light in this case."

The charge in the present case should have read "that you, being a suspected person, etc."

The accused was convicted by the learned Magistrate who has written well-arranged grounds of decision.

There are, however, unsatisfactory features apparent on the record. The charge is defective in that it has not been accurately framed. It does not state so much of the definition of the offence as to give the accused notice of the matter with which he is charged. The cases which have been cited show that it is a safe and prudent general rule that the charge should follow the wording of the section of the law under which it is brought. Unless this is done, the case will very often take a wrong turn and a misdirection will result.

There were also other questionable aspects of the case, but as the defect already mentioned was fatal to the conviction, the other aspects of the appeal were not argued before me and I shall withhold comment on them.

In the result I allowed the appeal, reversed the finding and sentence against the appellant and acquitted and discharged him.

Appeal allowed.

Solicitors: *Sen & Lim.*

CHUA BAK HENG v. REG.

[A. Cr. J. (Chua J.) September 16, 1957]

[Singapore — Criminal Appeal No. 123 of 1957]

Road Traffic — Heavy motor car — Laden weight — Determination of — Whether Registrar of Vehicles has power to assess or determine — Motor Vehicles (Construction and Use) Rules, 1948, rr. 89 & 93A — Whether ultra vires powers of Minister for Communication and Works — Road Traffic Ordinance (Cap. 227), s. 44(1)(d).

This was an appeal by the accused against his conviction on a charge of using a motor lorry so laden with bales of rubber that the weight thereof including the load exceeded the maximum laden weight painted on the side of the lorry in pursuance of rule 89 of the Motor Vehicles (Construction and Use) Rules, 1948. It was contended on behalf of the appellant that the Registrar of Vehicles had no power to regulate, assess or to determine the maximum laden weight of heavy motor cars and motor cars which were constructed or adapted for use for the carriage of goods or trailers and that the determination of the maximum laden weight of such vehicles was *ultra vires* the powers of the Registrar of Vehicles. It was further contended that as the Registrar of Vehicles had no authority to determine the maximum laden weight of such vehicles rule 93A of the Motor Vehicles (Construction and Use) Rules, 1948 was also *ultra vires.*

Held: (1) by section 44(1)(d) of the Road Traffic Ordinance (Cap. 227) the power to regulate the maximum laden weight of motor vehicles was exclusively reserved to the Minister for Communications and Works;

(2) the Registrar of Vehicles had no authority to fix the maximum laden weight of a heavy motor car or a motor car which was constructed or adapted for use for the carriage of goods or a trailer, and such weight fixed by him on the licence was in conflict with the maximum laden weight laid down in rule 94 or 95 or 96 of the Motor Vehicles (Construction and Use) Rules, 1948;

(3) the determination of the maximum laden weight of heavy motor cars constructed or adapted for use for the carriage of goods or trailer was *ultra vires* the powers of the Registrar of Vehicles;

(4) Rule 93A of the Motor Vehicles (Construction and Use) Rules, 1948 was *ultra vires* the powers of the Minister for Communications and Works.

MAGISTRATE'S APPEAL.

K Seth (*Tan Peng Khoo* with him) for the appellant.

E. H. D'Netto (Crown Counsel) for the respondent.

Chua J. : — The appellant in this case was charged in the Magistrate's Court with the following charge :—

"That you, at or about 12.05 p.m. on 20.6.56 at Beach Road, did use m/lorry SA 2881 constructed (or adapted) for use for the carriage of goods, so laden with bales of rubber that the weight thereof including the load amounted to 11 tons 4 cwts. which laden weight exceeded the maximum laden weight of 5 tons 1 cwt. painted or marked thereon in pursuance of Rule 89 and thereby committed an offence under Rule 93A of M.V. (Const. & Use) Rules 1948, and punishable under Sec. 81 R.T. Ord. 17/41."

The appellant was found guilty and was fined $30 in default 6 days imprisonment.

The facts are not in dispute. The appellant who was driving motor lorry No. SA 2881 was stopped whilst conveying rubber. The lorry was weighed with the rubber on it and found to be 11 tons 4 cwts. This was in excess of the maximum laden weight of 5 tons 1 cwt. painted on the side of the lorry.

This appeal involves important points of law. It is contended on behalf of the appellant (i) that the Registrar of Vehicles, Singapore, has no power to regulate, assess or to determine the maximum laden weight of heavy motor cars and motor cars which are constructed or adapted for use for the carriage of goods or trailers and that the determination of the maximum laden weight of such vehicles is *ultra vires* the powers of the Registrar of Vehicles and (ii) that as the Registrar of Vehicles, Singapore, has no authority to determine the maximum laden weight of such vehicles Rule 93A of the Motor Vehicles (Construction and Use) Rules 1948 is also *ultra vires.*

Rule 93A of the Motor Vehicles (Construction and Use) Rules 1948 provides as follows :—

93A. No person shall use, cause, suffer or permit to be used any heavy motor car, motor car which is constructed or adapted for use for the carriage of goods or trailer, so laden that the weight thereof, including the load, exceeds the maximum laden weight painted or otherwise marked thereon in pursuance of rule 89, 90 or 91 as the case may be."

Rule 89 of the Motor Vehicles (Construction and Use) Rules 1948 is as follows :—

89. The owner of a heavy motor car shall cause his name and address, the weight of the vehicle unladen, the maximum laden weight endorsed on the licence issued under the Motor Vehicles (Registration and Licensing) Rules, 1949 in respect of such vehicle and the maximum